

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTHONY THAMES MARTINII,
JACINDA THAMES MARTIN, DAVEON
JACKSON, ANTHONY THAMES
MARTINIII, AND ALIJAH THAMES
MARTIN, individually;

Plaintiffs,

vs.

KJH ENTERPRISES, LLC, a Nebraska
Limited Liability Corporation; KEVIN
HURT, AND individually; and JENNIFER
HURT, individually;

Defendants.

8:15CV418

MEMORANDUM AND ORDER

Defendants have moved to assign this case to a Lincoln trial location. ([Filing No. 21](#)). Plaintiffs' complaint requested trial in Omaha; Defendants' answer requested trial in Lincoln. Pursuant to NECivR 40.1, Defendants timely filed a motion to resolve these conflicting requests. When resolving conflicts over the requested trial location, the court considers "the convenience of the litigants, witnesses, and attorneys" NECivR 40.1(b)(2). Upon review of the record, for the reasons discussed below, Defendants' motion will be granted and this case will be assigned to Lincoln.

Plaintiffs allege Defendants wrongfully evicted them from their home in Lincoln, Nebraska and they were unable to find another home in Lincoln because Defendants provided negative references to landlords in Lincoln. Plaintiffs moved and currently live in Omaha, and their attorney offices near Omaha (Papillion, Nebraska). Defendants live and work in Lincoln, their attorney offices in Lincoln, and Defendants intend to call trial witnesses who work for the Lincoln Housing Authority and Lincoln Building & Safety, both located in Lincoln.

Lincoln witnesses will likely be called by Plaintiffs as well. As stated in the affidavit of Plaintiff Jacinda Thames Martin, Plaintiffs claim that after being evicted, they attempted to lease property from a different landlord in Lincoln, but their application was rejected due to a negative reference provided by Defendants. ([Filing No. 24-1, at CM/ECF p. 2](#)). To prove their negative reference claim, Plaintiffs will need testimony from the Lincoln landlord or landlords who allegedly received negative references from the defendants. And to prove they were unable to find housing in Lincoln, Plaintiffs will need to prove they tried—with Lincoln witnesses as the likely source to support or refute that claim.

Plaintiffs argue that Defendants have subpoenaed documents from the Omaha Housing Authority (OHA), and therefore Omaha witnesses will be called at trial. But there is nothing of record stating OHA employees will need to testify. In a federal case, certified OHA business or public records can be offered and received without calling a live witness.

After considering the filings and evidence of record, the court finds this case should be assigned to Lincoln for the convenience of the parties, witnesses and counsel.

Accordingly,

IT IS ORDERED that Defendants motion, ([Filing No. 21](#)), is granted. This case is assigned to the Lincoln trial docket.

May 9, 2016.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge